



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,893	07/05/2001	Fumio Negoro	210436USXPCT	8685

22850 7590 02/21/2006

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

NAHAR, QAMRUN

ART UNIT PAPER NUMBER

2191

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/868,893	<b>Applicant(s)</b> NEGORO, FUMIO	
	<b>Examiner</b> Qamrun Nahar	<b>Art Unit</b> 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 11/14/2005.
2. The rejection under 35 USC 101 to claims 31-38 is withdrawn in view of applicant's amendment.
3. Claims 31-38 have been amended.
4. Claims 1-39 are pending.
5. Claims 1-39 stand finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
7. Claims 1-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "LYEE development method" in claims 1-39 is a relative term which renders the claim indefinite. The term "LYEE development method" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. Specifically, the standard or procedure for "LYEE development method" could change over

Art Unit: 2191

time, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention.

*Response to Arguments*

8. Applicant's arguments filed on 11/14/2005 have been fully considered but they are not persuasive.

*In the remarks, the applicant argues that:*

a) Claims 1-39 were rejected under ...

Moreover, lines 18-21 at page 1 of the specification specifically note that the “LYEE (governmental ... ) program development method has been registered as a means for revolutionizing the conventional software creation methods ...” (emphasis added). Accordingly, there is nothing “relative” about the claimed “LYEE development method” and no need to ascertain any “requisite degree” of anything. The PTO clearly is in error in attempting to first suggest that there is some kind of “degree” associated with the claimed “LYEE development method,” like there is for the term “about”, for example.

Furthermore, the rejection appears to be founded on the improper supposition that “the standard or procedure for the LYEE development method could [not even must or will] change over time” and an apparent attempt to correlate these PTO imagined possible changes to real variations constituting some kind of “degree,” apparently as to the possible future varieties of methods that might be called LYEE development method. However, what might or might not happen to the “LYEE development method” existing as a conventional method when this

Art Unit: 2191

application was filed and know as such at this time to those skilled in the art has nothing to do with the meaning of the term as included in the present claims. ...

The outstanding Official Action also erroneously relies on the mere chance that “the standard or procedure for ‘LYEE development method’ could change over time” to conclude that ... Therefore, one of ordinary skill in the art would clearly be appraised of the scope of the invention at the time the application was filed.

*Examiner's response:*

a) Examiner strongly disagrees with applicant's assertion that claims 1-39 are definite. As previously pointed out in the last Office Action (Mailed on 04/21/2005, par. 4) and currently maintained by the Examiner, claims 1-39 are indefinite. The term “LYEE development method” renders the claims indefinite because it is a standard that could change over time. The mere fact that the standard is registered does not imply the standard will not change. At the time of filing the application, the “LYEE development method” had a version and/or edition for the standard. If a version and/or edition number followed the term “LYEE development method”, then the standard has been established and definite at the time the application was filed.

In addition, see the rejection above in paragraph 7 for rejection to claims 1-39.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2191

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 9:30 AM to 6:00 PM.

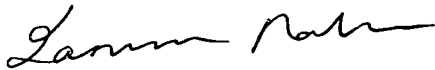
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y Zhen, can be reached on (571) 272-3708. The fax phone number for the organization where this application or processing is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

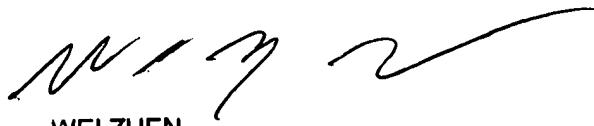
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 2191

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QN  
February 14, 2006



WEI ZHEN  
SUPERVISORY PATENT EXAMINER